



Paper No. 6

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COPY MAILED

OCT 25 2000

In re Application of
Christian Laroque et al.
Application No. 09/605,881
Filed: June 29, 2000
For: Method of Monitoring the use of a
Chargeable Dynamic Signaling Port of an
Inter-Exchange Trunk

: OFFICE OF PETITIONS
: A/C PETENTS
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 21, 2000.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). The reply to this decision may include an oath or declaration executed by the nonsigning inventor in compliance with 37 CFR 1.63.

The above-identified application was filed on June 29, 2000 without an oath or declaration and naming Christian Laroque and Lahcen Bennai as joint inventors.

Accordingly, on August 28, 2000, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and the \$130 surcharge for its late filing.

In response, on September 21, 2000, petitioner submitted the instant petition and an authorization within the petition to charge the petition fee, a \$130 surcharge, a declaration of facts in support of the petition, documented evidence in support of the petition, the last known address of the nonsigning inventor, and a declaration in compliance with 37 CFR 1.63 and 1.64 signed by joint inventor Lahcen Bennai, but not by joint inventor Christian Laroque.

The declaration of facts presented by Michèle Bruneel, an employee of Alcatel, states that she forwarded the Declaration and Power of Attorney relating to the above-identified application to Mr. Xavier De Fay of Alcatel Business Systems for execution by both inventors and the declaration was returned to her with only the signature of joint inventor Lahcen Bennai. Ms. Bruneel further states that, in an E-mail transmission forwarded to her by inventor Christian Laroque in which he referred to the above-identified application, Mr. Laroque indicated that he would not sign and return the Declaration and Power of Attorney for the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks items (1) set forth above.

Rule 47 applicant has failed to adequately show or provide proof that nonsigning inventor Christian Laroque has refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). In this regard, no evidence has been presented showing that a copy of the complete application papers (specification, claims, and drawings) were in fact mailed and/or received by the nonsigning inventor prior to his statement of refusal. If in fact joint inventor Laroque was not presented with a copy of the complete application papers, then Mr. Laroque rightfully refused to execute the documents which he was requested to sign since he could not attest that he has "reviewed and understands the application papers." Petitioner should either demonstrate that a copy of the application papers was presented to Mr. Laroque but he did not respond to the request that he sign the oath or declaration or that Mr. Laroque refused to accept delivery of the application papers in order to show that he has refused to join in the application.¹ The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc. See MPEP 409.03(d).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

¹ The copies of Exhibits 1 and 2 supplied with the petition are not in the English language and therefore cannot serve as evidence in support of the petition to establish refusal of the nonsigning inventor to join in the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to Latrice Bond at (703) 308-6911.



Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy